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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,367	09/02/2003	Reid Rabon	163.1436USD1	4230

7590 10/28/2005

Attention of Mark T. Skoog  
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EXAMINER

BOYER, CHARLES I

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/654,367

Applicant(s)

RABON ET AL.

Examiner

Charles I. Boyer

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 42-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is responsive to applicants' amendment and response received August 22, 2005. Claims 42-59 are currently pending.

#### ***Information Disclosure Statement***

1. The information disclosure statement filed September 2, 2003 does not contain a copy of the foreign patent documents as these documents were submitted in the parent application, serial number 09/816695. Though the examiner has no doubt that the documents were submitted with the parent application, unfortunately, these documents are no longer in the file. Though this is almost certainly an error on the part of the Office, the examiner would be grateful if applicants could submit the foreign patent documents so that they may be considered.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 47 and 51 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the last two lines of claim 47, the limitation "the dissolved neutral or neutralizing rinse composition comprises a dissolved neutralizing rinse composition" is not understood. Claim 51 refers to a Markush group of

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instruments, but later refers to a cart or cage, which is not contained in the original Markush group.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 42-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lentsch et al, US 5,880,088.

Lentsch et al teach solid block rinse aids for dilution in a washing machine and subsequent rinsing of utensils (see abstract). Lentsch et al specifically teach that "The liquid materials of the invention can be adapted to a solid block rinse by incorporating into the composition a casting agent. Typically organic and inorganic solidifying materials can be used to render the composition solid. Preferably organic materials are used because inorganic compositions tend to promote spotting in a rinse cycle. The most preferred casting agents are polyethylene glycol and an inclusion complex comprising urea and a nonionic polyethylene or polypropylene oxide polymer.

Polyethylene glycols (PEG) are used in melt type solidification processing by

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uniformly blending the sheeting agent and other components with PEG at a temperature above the melting point of the PEG and cooling the uniform mixture" (col. 11, lines 8-20, emphasis added by the examiner). An example of such a composition comprises 73% EO/PO block polymer, silicone antifoam, and 16% urea (col. 16, example 5). The EO/PO polymers taught by the reference appear to be the same as those presently claimed (see col. 7, lines 36-52). Accordingly, Lentsch et al appear to teach the exact same rinsing composition as claimed by applicants, the only difference being the rinse aid of the reference is used for rinsing cookware and the present claims are drawn to rinsing medical equipment. The examiner maintains that the medical equipment as broadly defined in the present claims overlaps the utensils taught by the reference. For example, an "instrument or device" as claimed could refer to almost anything, and note that the rinse aid of the reference is used to rinse plastic, glass, and stainless steel (col. 17, table 5), any of which materials could be used in medical applications. Accordingly, one of ordinary skill in the art would recognize the utility of the rinse aid of the reference for rinsing other types of utensils, including medical equipment, given the fact that a great deal of medical equipment is formulated from plastic, glass, and stainless steel, the very materials Lentsch et al teach as being effectively rinsed by their rinse aid composition.

Applicants have traversed this rejection on the grounds that the medical devices and instruments recited in claim 51 are different from the utensils taught by the reference. The examiner acknowledges this argument, but maintains that one of ordinary skill in the art would recognize the utility of the rinse aid of Lentsch et al as a suitable rinse aid for the medical devices recited in claim 51, particularly devices such as knives, pans, and glassware.

6. Claims 42-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulz et al, US 5,698,513.

Schulz et al teach solid block rinse aids for dilution in a washing machine and subsequent rinsing of utensils (see abstract). An example of such a composition comprises 84.48% EO/PO block polymer, 12% urea, and 3.5% water (col. 14, example 2). Accordingly, Schulz et al appear to teach the exact same rinsing composition as claimed by applicants, the only difference being the rinse aid of the reference is used for rinsing cookware and the present claims are drawn to rinsing medical equipment. The examiner maintains that the medical equipment as broadly defined in the present claims overlaps the utensils taught by the reference. For example, an "instrument or device" as claimed could refer to almost anything, overlapping utensils also used as cookware, for example knives, trays, and pans. Accordingly, one of

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ordinary skill in the art would recognize the utility of the rinse aid of the reference for rinsing other types of utensils, including medical equipment, based on this natural overlap.

Applicants have traversed this rejection on the grounds that the medical devices and instruments recited in claim 51 are different from the utensils taught by the reference. The examiner acknowledges this argument, but maintains that one of ordinary skill in the art would recognize the utility of the rinse aid of Lentsch et al as a suitable rinse aid for the medical devices recited in claim 51, particularly devices such as knives, pans, and glassware.

7. Claims 42, 47, 51, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter et al, US 5,234,719.

Richter et al teach microbicidal compositions for sanitizing food contact surfaces in health care environments (col. 1, lines 9-11). An example of such a composition is a solid formation that is diluted with water and comprises 12.81% EO/PO block polymer, octanoic acid (satisfies the defoamer limitation), 60% urea, and 8% propylene glycol (col. 15, table 7 and col. 18, claim 18). Richter et al do not specifically teach a method of rinsing medical equipment, however, as Richter et al contemplate their composition for use in

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health care environments, it would have been obvious to one of ordinary skill in the art to use the composition for this purpose.

Applicants have traversed this rejection on the grounds that a medical cart or cage is not suggested by the term, healthcare environment. The examiner respectfully disagrees and maintains that carts (such as food delivery carts) and cages (such as those used in deep-frying) are food contact surfaces one would wish to sanitize, particularly in a health care environment.

8. Claims 42, 47, 51, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bull, US 5,310,549.

Bull teaches germicidal compositions for use in health care environments (col. 1, lines 5-10). An example of such a composition is a solid formation that is diluted with water and comprises 10% EO/PO block polymer, coconut fatty acid (satisfies the defoamer limitation), 48.8% urea, and at least 5% water (col. 9, example 7). Bull does not specifically teach a method of rinsing medical equipment, however, as Bull contemplates her composition for use in health care environments, it would have been obvious to one of ordinary skill in the art to use the composition for this purpose.

Applicants have traversed this rejection on the grounds that a medical cart or cage is not suggested by the term, healthcare environment. The



examiner respectfully disagrees and maintains that carts (such as food delivery carts) and cages (such as those used in deep-frying) are food contact surfaces one would wish to sanitize, particularly in a health care environment.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles I. Boyer whose telephone number is 571 272 1311. The examiner can normally be reached on M-F 9:30 to 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571 272 1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Charles I Boyer". The signature is fluid and cursive, with the first name "Charles" and last name "Boyer" clearly distinguishable.

Charles I Boyer  
Primary Examiner  
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